

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

200 KIMBALL DRIVE

PARSIPPANY, NEW JERSEY 07054

(973) 503-5900

FACSIMILE

(973) 503-5950

www.kelleydrye.com

NEW YORK, NY
WASHINGTON, DC
LOS ANGELES, CA
CHICAGO, IL
STAMFORD, CT

BRUSSELS, BELGIUM

AFFILIATE OFFICES
MUMBAI, INDIA

DIRECT LINE: (973) 503-5920

EMAIL: v Rao@kelleydrye.com

September 13, 2012

VIA ECF

Hon. Tonianne J. Bongiovanni, U.S.M.J.
United States District Court
Clarkson S. Fisher Federal Building
and United States Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: Takeda Pharmaceutical Company Limited, *et al.* v. Zydus Pharmaceuticals
USA Inc., *et al.*
Case No. 3:10-cv-01723-JAP-TJB

Dear Judge Bongiovanni:

We represent defendants Zydus Pharmaceuticals USA Inc. and Cadila Healthcare Limited (collectively "Zydus"), in the above-referenced patent action. On September 10, 2012 plaintiffs, through counsel, submitted a letter to Your Honor contending that certain portions of the August 31, 2012 rebuttal report of Zydus' expert Harry Brittain should be stricken. There is no basis for the relief requested by plaintiffs and Zydus will fully respond to each of plaintiffs' arguments purportedly evidencing their entitlement to the relief sought.

Pursuant to Judge Pisano's August 14, 2012 (Revised) Notice of Bench of Trial, [Document 219], Pre-Trial motions are due on September 28, 2012. Plaintiffs' September 10, 2012 letter to Your Honor is a Pre-Trial motion that should be filed with the Court, in proper form, pursuant to Judge Pisano's Order. The timing of Zydus' response to that motion would also be dictated by Judge Pisano's Order.

If it is Your Honor's intent to treat plaintiffs' September 10, 2012 letter as a procedurally proper request for relief that is not more appropriately heard by Judge Pisano as a Pre-Trial motion, Zydus will address its response to plaintiffs' letter to Your Honor. The parties are presently engrossed in expert depositions, with four depositions being conducted between September 11, 2012 and September 18, 2012. In order to allow Zydus' counsel to focus on

KELLEY DRYE & WARREN LLP

Hon. Tonianne J. Bongiovanni, U.S.M.J.
September 13, 2012
Page Two

expert depositions, and to fully and completely respond to plaintiffs' September 10, 2012 letter, Zydus respectfully requests that if Your Honor is inclined to address the matters raised in plaintiffs' letter, Zydus be permitted to submit its response no later than Friday, September 21, 2012.

Thank you for Your Honor's courtesies in this matter.

Respectfully yours,

s/ Vincent P. Rao II

Vincent P. Rao II

cc: Counsel of Record via ECF